

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**MINUTES
MAUI/LANAI ISLANDS BURIAL COUNCIL MEETING**

**DATE: THURSDAY, JUNE 30, 2005
TIME: 9:00 A.M.
PLACE: COUNTY OF MAUI
PLANNING DEPARTMENT
KAULANA PAKUI BUILDING 1ST FLOOR
250 S. HIGH STREET
WAILUKU, HI 96793**

ATTENDANCE:

Members:	Charles Maxwell, Chair	
	Dana Naone Hall, Vice-Chair	
	Leslie Kuloloio	
	Michael Minn	
	Clifford Naeole	
	Mei Lee Wong	
	Glenn Richardson	
Absent:	William Frampton	(excused)
	William Waiohu	(excused)
	Vince Kanemoto, Deputy Attorney General	(excused)
	Nathan Napoka, Cultural Specialist	(excused)
Staff:	Kawika Farm, Clerk Stenographer II	
	Melissa Kirkendall, Maui Archaeologist	
Guest:	Michael Dega	Dale Bassford
	Paul Ohta	Martha Yent
	Ivy Jean Sanchez	Wendy Osher
	Nelson K. Armitage	Ben Perry
	Melissa Kalawaia	Patricia L. Maddela
	Costo Maddela	Lisa Rotunno-Hazuka
	Thelma Shimaoka	

I. OPENING REMARKS

MLIBC Chair Charles Maxwell calls the meeting to order at 9:17 a.m. Maxwell acknowledges commissioners Kuloloio, Wong, Naeole, Minn and himself. Maxwell commented Kawika Farm on how well the minutes and the MLIBC packets were done.

Naeole moved and Minn seconded, “that the approval of the meeting minutes be deferred until the arrival of the Vice-Chair, Dana Hall.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

Kuloloio moved and Minn seconded, “that item A on the agenda be moved until a later time.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

(Hall arrives at 9:19 a.m.)

II. APPROVAL OF MEETING MINUTES

March 23, 2005

April 28, 2005

Maxwell again commented on how well the meeting minutes were done and asked Hall if any revisions or amendments were needed. Maxwell calls on Naeole to give the *pule wehe* and apologizes for forgetting to have done this earlier. Maxwell thanked Minn for reminding him about the *pule wehe*. Hall said she had a few corrections that needed to be made within the March 23, 2005 minutes. Hall said on page 4, within the motion to add the word “and” after burial treatment. Hall said on page 6, the last line in the fourth paragraph, to capitalize the first “D” in the word deeds. Hall said on page 7, at the top of the page where it reads “this presents a bit of a problem for future council,” to include “a” so the sentence reads “this presents a bit of a problem for a future council.” Hall said on page 14 to change the spelling of the word Mo’ole’a to Mu’olea. Maxwell asked if there were any other corrections to which none was offered.

Naeole moved and Minn seconded, “to approve the meeting minutes.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

III. BUSINESS

A. BURIAL TREATMENT PLAN FOR SITE 50-50-05-5563 LOCATED AT MAUI COUNTRY CLUB, SPRECKELSVILLE, WAILUKU AHUPUAA, WAILUKU DISTRICT, ISLAND OF MAUI, HAWAII; TMK: (2) 3-8-78-:01

Information / Recommendation: Discussion of draft burial treatment plan.

Mike Dega of SCS Archaeology introduced himself and Mr. Dale Bassford who was the General Manager (GM) at the Maui Country Club (MCC). Dega expressed his appreciation for Minn the Hana representative and for all his help and assistance in the past. Dega said he hopes Minn will continue to serve on the council in the future. Dega said the burials treatment plan (BTP) was done by Dr. Laura O’Rourke who also conducted the fieldwork at the MCC. Dega mentioned Dr. O’Rourke had accepted a

position at the University of Berkeley which was why he was presenting the BTP. Dega said Dr. O'Rourke and several other people of SCS went out last year (2004) on two different occasions to excavate for an inventory survey and (inaudible) at the MCC. Dega said 9 backhoe trenches were excavated and backhoe trench #2 yielded human remains which would be included in the BTP. Dega said the remains were found in white based sand, in the (inaudible) pile of layer 2 that was above a grassy area which was over some red clay that was layer 3. Dega said in the white sand, where the remains were found contained lots of glass shards. Dega said it was interpreted and seconded by Kirkendall that, that was a fill layer brought into the area. Dega said all the remains are being stored at SHPO under the care of Dr. Kirkendall.

(Richardson arrives at 9:29 a.m.)

Dega said the BTP would like to preserve the remains on site in a preserve area which would be located 32 meters north of the club house and 13 meters north of where the remains were found. Dega said page 34 in the BTP outlines what was being proposed. Dega said there would be a small *ahu* and stone monument on top of the remains. Dega said there will be a permanent buffer zone. Dega said in regards to future construction that may occur on the property, he would like those questions addressed to Dale Bassford the GM who was also in charge of construction. Hall suggested some corrections to Dega and said the 5th line in the abstract should read "inventory survey" not "inventory testing". Dega said he would make the corrections and provide an updated version of the BTP as well as a copy of the approved inventory letter dated May 23. Hall said the burial treatment plan for the partial remains of one individual was 40 pages long. Most of the information was a repeat of the inventory survey and was not necessary in the BTP. Dega agreed that all the extra material was not needed in the BTP. Hall said to include in figure 8 of the BTP where the proposed reinterment will be located.

(Kirkendall arrives at 9:35 a.m.)

Hall asked Bassford about the human remains found at the Maui Country Club. Bassford said as the BTP was written it refers to a leach field that was later determined not to be a leach field and the MCC and those who sold the property to the Country Club have no recollection as to what it was. Bassford said he was unsure as to where the slab originated but did mention it could have something to do with the railway that once passed through that area. Hall said (inaudible). Bassford said it was on the leach field that Mr. Butch referred to here, that it was in fact a cesspool that had been abandoned with the pipes actually coming from the *makai* direction. Bassford said this was something that MCC had previously no knowledge of.

Hall said on page 30 under "the heading of timeline following the discovery of human remains, some corrections needed to be made." Hall said that more specific language needed to be used. Hall refers to Dega's BTP and suggested some corrections under discussion of the inventory survey. On page 34 Hall said to fix the sentence that read "the proposed reinterment location is located 13 meters north of where the burial was found during Inventory Survey testing." Hall said the reinterment location needs to be more specific and suggested to use the property line as a point of reference. Hall suggested the first bullet point needed more details and said the council generally asked for two feet of sand fill within the reinterment pits. Hall said to specify the site number. Dega asked if

Hall wanted the HRS included as well to which Hall said she doesn't think it's necessary. Dega to confirm asked Hall if what she wanted included was the state site number and the burial site number to which Hall concurred.

Kirkendall mentioned that the only concern she had was during reinterment, that on the concrete capping of the burial and other marking, to include the complete SIHP numbers which would be the 50-50 and the Quad as well as the Site number. Kirkendall said she realizes this was not always asked for in the past but suggested both the burial council as well as SHPD start getting into the habit of requesting these and making sure complete designation was done. Hall said under the third bullet point to change the language of the first sentence. Hall asked what the measurements for the proposed buffer area was, to which Dega answered 20 meters. Minn asked about pipes and if MCC was planning to build a swimming pool. Bassford said originally on the master plan this was the site of a future pool. Bassford said once the remains were discovered the board of directors determined the area would be of no further service so it was deleted from the master plan and it was decided that the existing pool needed to be expanded. Minn asked how high the sand dune was. Hall said the sand dune from the base of the dune where the platform would be constructed. Kirkendall said it would also be good to have that buffer logged on the map on pages 36 and any future maps. Hall said to also mention any anticipated construction within the BTP. Hall said it would be okay to have the burial platform surrounded by lawn. Hall said the council wants to ensure the burial was not affected by any construction present or in the future.

Kuloloio said he appreciates the burial registration form Dega included with his BTP and mentioned the council needs this type of information included in every type of findings whether it's fragments or whatever because it's helpful in understanding the burial. Kuloloio said he wanted to go back to page 3 where figure 2 shows the MCC in yellow and asked if the yellow area was the entire MCC property which includes the buildings and golf course. Bassford said yes the yellow section does encompass all of MCC's property which was about 56.6 acres. Bassford said as he looks at the map, the property would run from what was called Baby Beach all the way to Baldwin Park.

Kuloloio said figure 3 on page 4 was another location of the MCC because there was an arrow pointing towards the Clubhouse and there was the continuation of the golf course north of the shoreline towards Paia. Kuloloio wanted to know if the total acreage including the golf course was owned by the members of the country club or if part of the ownership belonged to Alexander and Baldwin (A&B) and if there was any other ownership that was not mentioned. Bassford said no, as a matter of fact the MCC was leasing the whole property, the 56.6 acres owned by A&B. Bassford said the ocean parcel sort of depicted in white was a different lot number separate from that which the MCC was located on. Kuloloio said he understands that, what he was trying to figure out was what was white and what was green. Bassford said the roadway that comes in and marks the Clubhouse in the white section of figure 3 closely resembles the line MCC follows between where the makai borders and the *mauka* side by Hana highway. Kuloloio said to him when there's a job with the written description that would be studied by any archaeologist or anthropologist it's good to have mapping because that was what he was interested in. Kuloloio asked if the acreage for what was being shown on page 4 was available. Bassford said he believes the acreage was demonstrated as being approximately 6.5 acres which was identified as the project site when SCS was asked to perform the

archaeological survey. Bassford said the survey was only on the area in which the immediate renovation would take place. Kuloloio said the question he was asking was if what was being shown had any bearing on the project site to which Bassford answered no. Kuloloio said he was thinking of future generations and their ability to process the information from page 4 to become archaeologist so they can follow a BTP because the BTP being presented was not really clear.

Maxwell said Kirkendall wanted to clarify something. Kirkendall suggested to Dega to overlay the parcel boundaries of the USGS quadrant on page 4 as well as superimpose the area so the inventory survey was covered on that same USGS quadrant which would help satisfy what Kuloloio was asking for. Kuloloio said there are time when the council receive reports and is unsure who the real owners are and sometimes during the permit process the county may ask for the same type of work he was asking for now. Kuloloio said by including the information the people providing the report can then say it was done already. Kirkendall said she knows what Kuloloio was asking for was done during the inventory survey. Kuloloio said he didn't know about the white and green on page 4 and he objects to the report. Hall said the plan should identify A&B as the landowner.

Kuloloio said on page 8 and 9 under post-contact the information was very confusing. Kuloloio said he can read all the information based on what was appropriate but he still had his thoughts mixed up. Kuloloio said Hawaiian history, notes and stories written by non-Hawaiians are not always accurate. Kuloloio said the *ahupuaa* runs from Paia down to Kahului to Kanaha Beach Park. Kuloloio said this was how he relates to finding places not in relationship with what's here (in the BTP). Kuloloio said information on the *ahupuaa* needed to be included in BTP's for people like him and others can understand location points better. Hall said she understands what Kuloloio was saying but, (inaudible). Kuloloio said when there was a shovel test pit by the concrete slab, Dega asked if Kuloloio was talking about page 24 to which Kuloloio answered yes. Kuloloio said this was what he likes, he likes all the *lepo* under the slab because it was the same type of *lepo* found in Kanaha. Kuloloio starts to inquire about the concrete slab when Hall interjects and said Mr. Bassford was only here for clarification. Bassford said that was where Mr. Bush identified a potential leach field which was later found out that it was not a leach field. Kuloloio asked if an extended search as to why the concrete slab was there was ever conducted. Bassford said Kirkendall was present at the site when the slab was exposed and excavation was done beneath the slab to see what it was. Kuloloio asked if there was any clear indication as to what the cement slab was. Bassford said it appears to be a cesspool because there were pipes which drains into the area and runs towards where there was once a railroad a long time ago. Bassford said he thinks the concrete slab and the old railroad might have some sort of connection. Kuloloio said when you (Bassford) say it's a leach field it can't be because Hawaiians did not have leach fields and mentioned that the leach fields was a western concept. Kuloloio said Hawaiians did not have pipes running from their houses; they had a single pit for all their excretions that in some instance would run into the ocean. Kuloloio said he was just stumped as to what the concrete slab was. Hall and Maxwell both told Kuloloio that he was getting off the subject and that Mr. Bassford answered his question by saying he thought the cement slab was a cesspool but he wasn't certain. Kuloloio was frustrated because he felt there was lots more information that should be included in the BTP. Maxwell asked if there were any other comments.

Naeole said on page 35 where figure 18 shows ST-1, ST-3 and ST-4 and where there was an *imu* asked if the *imu* had been expanded. Bassford said he believes that was a luau grounds. Naeole asked if it was a permanent concrete *imu* pit. Bassford said no, annually for the past 3 or 4 years the MCC had luaus where a designated area was exposed at that time. Naeole asked if the same spot was always used to which Bassford answered yes. Naeole asked how far was the *imu* from the burial. Dega said from ST-2 to the burial monument was 13 meters. Naeole asked for the distance in feet to which Dega replied was 25 feet. Dega said there would be a permanent buffer around the burial monument.

Hall said since there was only one site to be preserved suggested the report be re-titled to Burial Treatment and Preservation Plan. Kirkendall said to also include the site and title numbers.

B. BURIAL TREATMENT PLAN FOR CEMETERIES AND KNOWN BURIAL SITES, WAI'ANAPANAPA STATE PARK, HONOKALANI AHUPUA'A, HANA DISTRICT, ISLAND OF MAUI; TMK: 1-3-005:006-009
Information / Recommendation: Discussion of revised draft burial treatment plan.

Martha Yent of State Parks identified herself and said she was at a MLIBC meeting in January with a draft burial treatment plan and since then has continued to meet with lineal descendants and included some additional survey work. Yent said she along with the lineal descendants were here today with a revised plan that they and IBC commissioner Minn had worked on. Yent said she would let the lineal descendants introduce themselves. Ivy Jean Sanchez for the Lono ohana introduced herself. Wendy Osher also of the Lono ohana introduced herself. Ben Perry for the Hoopai ohana introduced himself. Yent said to her knowledge there have been four major ohanas identified and two of them were being represented today. Yent summarized the case and said "the project involves three privately owned cemeteries at Waianapanapa State Park. This project highlights one cemetery in particular because it's in close proximity to camp grounds and there's no well defined rock wall. We noticed that it had been impacted by the public visiting the park and were unaware of the cemeteries and walked through it stepping on various grave stones. The plan is concentrated on site 5396."

Yent said she wanted to highlight the changes within the BTP. Yent said "one of the things from January is that we (State Parks) did not have a legal property survey since these are privately owned cemeteries. And site 5396 in particular is a concern because it didn't have a defined rock wall. The survey was done in March. If you (the council) look at figure 11 on page 38, the property line is shown on the cemetery map. There are substantial discrepancies, the low rock wall that exists on the south side of the cemetery does not fall within the property line very well. As a side note, the other two cemetery walls correspond very closely to the property boundaries. Archaeological testing was also done."

Yent said she recalls Hall being particularly concerned if there was going to be excavation done, then we would have to determined if there was going to be any cultural deposits. Yent said "one of the family members is concerned about the strong possibility of burials being outside of the designated cemetery area. Three test units (TU) are also shown on figure 11 which measure 50 centimeters by 50 centimeters. As a note, because state funds are being used to build these walls, the walls will be depicted as state property. Broad excavations were done. No archaeological or cultural deposits were discovered.

We think the area between the restroom and camp grounds has probably been disturbed and leveled somewhat and then filled. The deposits show a heavy compaction of (inaudible). Some of the filling consisted of *pahoepoe* bedrock.”

Yent said “the third thing done was meeting with the descendants twice, once in February and again in April. At the April meeting, the families put together a proposal for State Parks to consider. He proposal changed our thinking and raised lots of questions, however if you look at figure 18 on page 46, it sort of summarizes what the interim plan is. The descendants proposed to not build a makai wall because they felt that due to the buffers being only 18 inches between the asphalt path and the nearest gravesite. So a request was made to extend the east and west wall to the shoreline and remove the asphalt path. Phil Ohta and I (Yent) thought we could probably do this. However after checking I was informed that there is a question about lateral shoreline access. The other thing was if this path represents the historic trail that ran along the coastline here at Waianapanapa. An (inaudible) was asked to help research this issue. This is why the interim plan has been proposed where the path will remain available to the public at this time and make a break in the wall so that people can still use the path. In the meantime we will look at the options of providing an alternate trail for the mauka side of the cemetery. Another factor in this is the timing. The contractors who will be building these walls and at this time we are unsure as to when the contractor will begin work. We can’t do anything at this point so that we might lose the opportunity of building the wall.”

Yent said “the fourth thing done is the curator agreement which is attached as appendix J in this BTP. We’ve agreed to move the east wall be about 5 (inaudible) off from the legal sites. To ensure all the graves are encompassed within the cemetery, we will include some State Park lands. The curator agreement is State Parks way of authorizing and recognizing the lineal descendants to maintain State Park lands within the cemetery. The curator agreement is a preliminary draft and was included mostly to give people a sense of what a curator agreement looks like. The family and State Parks still need to work out the agreement. I know one thing that I did hear was to have at least 1 representative from each family to sign the curator agreement and it would be very easy to change the last page of the curator agreement.” Yent said these were some of the changes that were made and asked if there were any questions or comments for her or the lineal descendants.

Kuloloio asked Yent if she feels that the BTP she was submitting was complete in her heart. Yent said the only thing she is unsure about was the trail and how it would be dealt with. Yent said the one thing she didn’t mention was that if the trail was realigned to go around the cemetery, it may need to be ADA compliant. Yent said if the council was familiar with the topography at Waianapanapa realignment will not be an easy task. Maxwell asked the lineal descendants how they felt about what was being proposed within the BTP by State Parks.

Ben Perry said throughout the meetings that occurred and up until now, he feels that the State has done and has tried to encompass as best they can to satisfy what the lineal descendants has asked for. Perry said on behalf of his side of the family, he approves of what the State was doing. Perry said he did have some concerns and asked Yent if there would be a timeline as to when the new trail alignment might take place. Perry said Yent had asked him if he remembers the original trail at Waianapanapa as a child to which he

told her yes. Perry said the trail sort of connected the different beaches in the area. Perry said the main trail as he remembers came from another direction and he assumes that the trail continued through the village on over onto Waianapanapa cave area. Perry said the trail which runs along the beach was a different trail. Perry said recently there was an (inaudible) user and State Park had realigned a portion of the trail that had been damaged. Perry said the realignment was currently on the makai side of cemetery 5390 which wasn't the correct alignment. Perry said the trail did not go makai, it went at an angle mauka. Perry said he believes room needs to be made for use of the current asphalt trail until such time when the ADA compliance can go around the cemetery.

Perry said the BTP asked about a symbolic fence on the mauka side of the asphalt path and cemetery 5397. Perry expressed his opposition to this idea because if a symbolic fence was accepted then later on down the line it could be changed and removed. Perry said State Park should give the plot to the descendants and was considering the idea. Perry said he really wants a timeline because he wants to know how long this plan would take. Perry said he recognizes the expedition work that had been completed and agrees with the findings.

Perry said he wanted to make some corrections to the minutes of January 27, 2005 MLIBC meeting. Perry said mistakes were made and needed to be corrected. The first was when he made a reference to his great great great grandmother who was buried out on the ahupuaa, in the minutes it should have read grandfather not grandmother. Perry said the second mistake was that he had used the name Hikiole over and over at the meeting, but he was later told that the name he should have used was Kaanaole. Perry said the mistake was in the middle of the January 27 meeting minutes on page 1, 2, 3, and 4. Perry said the Kaanaole line connects all four families together. Perry said also on page 4 a reference to site 5392 was incorrect and it should read 5390.

Maxwell asked in the area that was bulldozed, what was there now. Perry said in one area there was nothing. Maxwell asked if the trail could go down to the ocean from that area. Perry said that was a possibility but when reference was made to the Piilani trail which comes from the Hana direction it went up. Perry said he could not really share too much on the other trails in the area because no one was alive who would remember those trails. Perry said he remembers some of the trails as a child. Maxwell said he was thinking that from the trail going to the cemetery could be used. Hall said her understanding was that the burials were all mauka side of the trail. Perry asked what trail. Minn said the asphalt pathway. Perry said currently two of the burials were mauka and mentioned there was no asphalt pathway at site 5390. Hall asked Perry to confirm if the burials that he knows of at site 5396 were mauka of the asphalt path to which Perry answered yes. Hall inquired about the Piilani trail. Minn said he thought the Piilani trail turns mauka and the makai trail or fishing trail goes to the beach. Perry said he proposed the realignment because the trail in front of 5390 did not connect the way it did today. Perry said today at 5390 the trail goes in a downward direction and continues upward onto the other trails.

Kuloloio said his mana'o on site 5396 was that sometimes spirituality must come into play and be considered in deciding what would be in the best interest of the kupunas. Kuloloio said he likes the fact of how involved all the lineal descendants are, but wanted them to know that in whatever direction the descendants decide to go, to realize that the BTP by

Yent was a very well thought out plan. Kuloloio said it was a good BTP because it involved all the ohanas.

Perry said he just wanted to stress the fact of not having a timeline and being that money would be involved in the realignment of the trail so it goes around the cemeteries. Perry said in his mind, rightfully that was where the trail belongs. Perry said before State Parks and the boundaries were established, Waianapanapa was all *hui* lands. Perry said they came and they plotted and did their work without knowing where the old boundaries were. Perry said when our people designated the area for cemeteries, they were the older people and they wanted the corridor. Minn asked Perry if he was satisfied with the plan with the exception of not having the timeline to which Perry said he gives his support to Yent.

Ivy Jean Sanchez daughter of Tony Bagio of the Lono ohana identified herself and said in regards to the interim proposal, she and her family supports the state. Sanchez said she realizes time was of the essence and she doesn't want any money for completion of the project to be lost. Sanchez said she asked her dad about the trail and mentioned her father told her he remembers the trail always being there. Sanchez said the trail was damaged at the Hana airport during construction of the airport. Sanchez said the trail runs through the Hana airport and if it can be determined where that trail goes, then we would be able to see if this was the true King's trail. Sanchez said in her aunty Ella's drawing in appendix C, she did note that it was the King's trail. Sanchez said she and her family has gone around the cemetery because it was a more proficient way of accessing the area but mentioned that was an issue needing to be addressed. Sanchez said she agrees with Yent in that the curatorship agreement was a draft and more consultation with family members needed to occur before the agreement could be finalized. Sanchez said the state has done a wonderful job and she and her family was in support of Yent and her actions thus far.

Minn said Yent should be commended for her work on the project. The council thanked Yent for her efforts on the Waianapanapa case. Maxwell asked if there was a timeline and if there wasn't he thought there should be, because without a specific timeline it could take 10 or 20 years before the project was completed. Yent said that was Perry's main concern as well but mentioned she wasn't exactly sure how much work would be done. Because of this, Yent said she told Perry she'll try for a year but it wasn't going to be definite. Yent said part of the problem was when the ADA coordinator from DLNR came out to Waianapanapa to do the preliminary assessment of the project area. Yent said she did not have the time to meet and speak with the ADA coordinator to see what the coordinator's thoughts were. Yent said she thought the topography would keep us mauka of both 5396 and 5397. Maxwell said he thought it was important to have a definite timeline included into the final report so it could be read and referred to by the lineal descendants. Yent said she would try but her concern was the money and at the moment no money had been budgeted for the project. Kuloloio asked if an approximate figure had been made. Yent said no, not at this time. Maxwell said if a timeline was set, then people would have to try and meet deadlines resulting in action taking place. Maxwell said he understands there are budgetary constraints but if the council and State Parks are just going to sit on the issue, then the project would probably never be completed. Maxwell mentioned that he and Phil Ohta has a lot of experience with things not happening and this was why he really wants a timeline.

Hall said this had been a positive experience and thanked Yent again and said (inaudible). Yent said this had been a very positive experience for her as well. Maxwell said the BTP and experience should be used as a model. Yent said she thought there was the advantage of knowing the cemeteries and families and how involved everyone was. Hall suggested to Yent to make a note of the corrections offered by Perry within the BTP. Maxwell asked if the corrections would be in the next meeting as something to discuss. Hall said it would not be necessary since the corrections fall under SHPD's responsibility. Hall said on page 1 in the second paragraph to change the word residence to resident.

Chair Charles Maxwell calls a recess at 10:45 a.m. The MLIBC meeting was called back to order at 10:52 a.m. by the Chair.

Kirkendall said on behalf of SHPD she wanted to thank the outgoing burial council members; Mike Minn, William Waiohu, Clifford Naeole and Glenn Richardson. Kirkendall said they were all extremely dedicated and devoted to what they did. Kirkendall said the outgoing council member's efforts were greatly appreciated by her and SHPD. Kirkendall said she appreciates the fairness in which the outgoing members approach the decisions they must make and the responsibility that was theirs on a volunteer basis. Kirkendall said she was going to miss their advice and comments which were extremely valuable to the council, SHPD and the public. Kirkendall said she hope should any of the outgoing commissioners get a chance to serve again in the future, that they would and thanked them again.

Kuloloio said he would like to extend his gratitude to the outgoing commissioners and expressed how they really represent what the IBC should be. Kuloloio said they did Hawaiians proud and thanked them again.

Maxwell said he also wanted to comment on how the outgoing members would be missed. Maxwell said he appreciated how the commissioners helped to meet quorums over the years.

Hall said she could not think of better council members who have the honesty and commitment to unravel and sort out all the cases that came before the council. Hall thanked and expressed her gratitude towards the outgoing commissioners for their many years of dedication.

Naeole said it was great serving despite getting a few parking tickets over the years. Richardson said he enjoyed his time on the council as well. Minn said since he's been on the council a lot more people call him up to ask questions and it has opened his eyes to a lot of things that had been happening. Minn said he learned a lot from the other council members. Minn said it was good that the council not only had the cultural aspect, but guys who knew about construction as well.

Wong thanked the outgoing commissioners for their service. Maxwell said serving on the council was an awesome cultural responsibility and sometimes there were weeks and weeks that were very hard because council members were not always in agreement on certain things. Maxwell said but although they may clash with each other, it was always

with the intent of protecting the *iwi* and that was the most important thing. Maxwell thanked all the council members for their service.

C. INADVERTENT BURIAL DISCOVERIES AT HRT ST. FRANCIS DIALYSIS FACILITY, WAILUKU DISTRICT, ISLAND OF MAUI; TMK: 3-8-007:140 AND PORTION OF 142

Information / Recommendations: Discussion of inadvertent burial discoveries and proposed mitigation for inadvertent burial discoveries.

Lisa Rotunno-Hazuka of Archaeological Services Hawaii (ASH) identified herself and said she wanted to discuss the HRT Dialysis property. Hazuka addressed the outgoing commissioners and told them it was not going to be the same without them. Hazuka said on the piece of paper she passed out, there was a map of what was talked about at the previous meeting. Hazuka said 3 burial sites had been identified to date at the Kaiser facility. Hazuka said during construction of Kaiser, materials were borrowed from another area. Hazuka said a burial was found sort of on the surface consisting of a child. Hazuka said there was definite previous disturbance. Hazuka said the second burial was found along the dust fence. Hazuka said the burial was intact and was identified as find spot (FS) 91. Hazuka said she had applied for site numbers for the burial sites. Hazuka said FS 91 was disturbed by the excavator. Hazuka said FS 93 was found in the parking lot area during construction. Hazuka said all the remains had been curated at the lab and the proposal was to make a preservation area in the small triangular section. Hazuka said if you look on your maps, the point of the triangle where the purple lines get really close means there was going to be a very steep (inaudible). Hazuka said the red line on the map represents a retaining wall. Hazuka reiterated how the council felt the landowners should give the whole corner for preservation and mentioned she thought the landowners were fine with the idea. Hazuka said because of the retaining wall that would be built, she thought another type of rock wall should go around the burials. Hazuka said the only thing she had a problem with was finding the correct terminology for the preservation area because of how large the buffer zone was and asked the council to help her find the appropriate terminology.

Kuloloio asked if the retaining wall was to protect against any movement of sand. Hazuka said she believes so but she had an engineer tell her that the retaining wall was actually to help demarcate the boundaries of the project area. Kuloloio asked where the burials were. Hazuka said the burials would be reinterred using a platform. Hazuka said the platform would be a 5' X 5' X 2' high river rock platform and would have a normal plaque. Hazuka said if the council wanted the whole triangle area for preservation then the council may want to protect certain boundaries by constructing a rock wall. Minn said all this was to prevent a shift of sand and said the wall could stay where it was. Kuloloio said the wall was going to be an eye sore. Hazuka said she would find out if the wall was a structural retaining wall and if it was some sort of boundary wall suggested she could ask the landowner to remove it. Kuloloio said he remembers something Ben Perry had said earlier about leaving an opening in the grave area for the kupunas to go *holoholo*. Hazuka said she'll see if the wall could be taken out. Maxwell said if it was possible, to see if the wall could be moved forward to encompass the burials. Wong asked how high the wall was. Hazuka said she wasn't sure. Maxwell said to check on that.

Hazuka asked if the council still wants to know if the whole corner could be used for the preservation area to which they answered yes. Hazuka said she'll work out the buffer zone more and check on the retaining wall to see if it may be moved.

D. HUMAN SKELETAL REMAINS IDENTIFIED ON THE STEVENS PROPERTY, MĀKENA, MAKAWAO DISTRICT, ISLAND OF MAUI; TMK: (2) 2-1-006:104

Information / Recommendation: Discussion of draft burial treatment plan and reinterment location for human skeletal remains.

Lisa Rotunno-Hazuka of ASH identified herself and said she was not ready to present the case and asked if the item could be moved to next month's agenda. The council agreed.

E. CASE UPDATES / OTHER INADVERTENT DISCOVERIES

Information / Recommendation: Status update on Site 4969, Including Access, Maliko Point, Haiku, Hamakualoa, Makawao District; TMK: 2-7-04:28, Status Update on Preservation Measures for Site 3120 at Nisei Veterans Memorial Center Project, Wailuku Ahupua'a, Wailuku District, Maui; TMK: 3-8-07-123 and 38 por., Status Update on Implementation of Interim and Long-Term Preservation Measures in Burial Preservation Plan for Site 4142, Honolulu, Lāhaina District, Maui; TMK: 4-2-004:031

Status update on Site 4969, Including Access, Maliko Point, Haiku, Hamakualoa, Makawao District; TMK: 2-7-04:28.

Maxwell asked Kirkendall if she had been out to the site at Maliko to which she answered yes. Kirkendall said she received several calls in November of last year (2004) from Sky Lewis and as a result went out to Maliko with DOCARE because DOT had indicated they had done some work along the highway remnant. Kirkendall said she went out with Larry Pacheco a DOCARE officer and what was found was that DOT had cleaned the highway where vegetation fronts the embankment of the preserve and they had done this with heavy equipment. Kirkendall said she was extremely concerned about this and called DOT and told them to stop work being done and to not use heavy equipment at all. Kirkendall said another action was going on where DOT was moving a barricade from the original location from mauka at the end to the eastern end of the highway and also told DOT that no clearing was to be done during the moving of the barricade. Kirkendall said she referred all the information to Kanai Kapeliela and Nathan Napoka (SHPD staff).

Maxwell asked if the burials were affected to which Kirkendall said no. Maxwell asked Kirkendall if she had read the letter from Sky Lewis to which she said yes. Kirkendall said her biggest concern was that heavy equipment was being used over at Maliko and she wanted to make sure that that had stopped, because in clearing the vegetation with the equipment, the surface had been scraped and as we know, a site could be visible from the surface. Kirkendall said that was why she put a stop to the clearing and after checking the site she found a chicken bone at the base of the cliff but mentioned that she did not find any evidence of disturbance to the burial sites itself. Maxwell asked Kirkendall what her recommendation was on preserving the particular site. Kirkendall said she thought the answer should come from the council and family members because it was really the family's *kuleana*. Kirkendall said she had hoped Kapeliela and Napoka would have provided information on the matter by this time. Kirkendall said since that had not

happened, expressed her appreciation for the council taking an initiative on the matter and suggests that together with the family members, community, the council and SHPD a resolution could be met.

Hall asked Kirkendall where the situation stood. Kirkendall said she believes it was with the moving of the barricade and the fact that the barricade was moved at the request of the community from the upper part down closer to the point. Kirkendall said in doing that, part of the action was to what she assumes was to facilitate a turn-around because the road was narrow down in that area. Hall was concerned the barricade was removed. Maxwell said what had been happening was Mr. Lewis had been using part of the remnant in the past for himself and mentioned that if vegetation was going to be removed then access could not be denied. Maxwell mentioned that a reduction in granting access in the area and having the barricade would provide a little safety from the 200 feet drop at the edge of the cliff.

(Kuloloio drew a rough sketch of a basic aerial view of Maliko Point). By making reference to the map Kirkendall and Kuloloio identified the remnant road, the point, where the barricade used to be and where the barricade currently was and mentioned the decision on where the barricade goes was really a decision the council should partake in. Hana highway was identified and Kirkendall explained using the map where and what was being removed from the area and reiterated her concerns. Kirkendall said DOT had assured her that no further clearing would be done in the area without first discussing the matter with SHPD. Kirkendall said she thought the council needed to assist in deciding where the barricade was placed so the access was available for the Kalawaia family and other who want admittance to the burial site. Kuloloio said he thought originally before the state went back to Maliko, the state should have spoken with SHPD and the IBC to determine the boundaries. Kuloloio said what he doesn't understand was why DOT was going into an old road not in use and clearing up and whether it was for drainage, flood control or whatever, he would like to know why they were at Maliko.

Nelson Armitage identified himself and said, "to explain the situation here, before any type of public access is blocked even where safety is a concern, you need to go through a due process of law, before any type of entrance is blocked whether it is ancient, Hawaiian, remnant roads or whatever, due process must occur. On the opposite side of Hamukualoa and Hamakuapoko, if you're driving 55 miles an hour, you can go right off that cliff, there's no safety guardrail there." Armitage said in reference to Maliko, you have to go at least 40 something miles an hour, then through the first guardrail, then the 4 feet high embankment before you go over the cliff, so the issue of safety was not as much of a concern as it was made out to be. Armitage said after interpreting the law, the state had no right to bring the guardrail there because it blocked access for fishermen and others. Armitage said he did not hear any type of construction experience mentioned in understanding the remnant of the road, the size of the road. Kirkendall said she had nothing to do with the (inaudible). Armitage said but you stopped the construction. Kirkendall said she stopped the clearing of vegetation that was occurring. Armitage said what happened was he and Fred Cajugal from DOT sat down took out a bunch of maps and determined that the owner (Lewis) was encroaching about 20 feet onto public land and using the encroachment for his own personal whatever.

Hall asked Armitage to explain the encroachment. Armitage said the reason why DOT started to remove the vegetation was because the owner had encroached onto the remnant by 20 feet. Armitage said his fence was on the public road and that was what was being removed, just that portion. Armitage said in the past the whole area used to be a piggery and mentioned he knew this because he was born in the area. Armitage said he would explain how Cajugal made the right decision of removing the encroachment done by the owner. Armitage referred to the drawing by Kuloloio and said "as you're coming from Hana, this is the road that you would need to slow down to about 5 miles an hour to make the turn into the entry way." Armitage identified the little parking area and old existing wall. Armitage said he asked Cajugal why he blocked the entrance. Armitage said Cajugal's response was because people were afraid. Armitage said he explained to Cajugal about the due process of law and after explaining that to him, Cajugal understood that DOT was in error and agreed to make amends. Armitage said Cajugal brought his maps and together it was determined that Lewis was encroaching onto public lands. Armitage expressed how he felt Lewis was cheating the public out of what belonged to them. Armitage said because of that Cajugal made the right call in agreeing to remove the encroachment by Lewis and started to clear the area without involvement from unnecessary agencies and without blowing the issue out of proportion. Armitage expressed his frustration towards Kirkendall with how he was told that the reason the removal of the encroachment had been stopped was because bones were found. Armitage said he made numerous calls to Kirkendall to try and find out what type of bones were discovered to which none of his calls were returned, until finally someone from the division contacted him and this was the reason why he was here today.

Armitage said his point was "that if you're going to violate the law and give preference to people then." Maxwell interjects and told Armitage that he would like to make some corrections. Maxwell said the fact of the matter was Mr. Lewis was trying to buy the remnant road for \$7,000.00, but the council put a stop to that. Maxwell said the state withdrew the sale of the property and agreed with Armitage, that the state had no right to sell the remnant road. Maxwell said what Kirkendall was saying and what she was concerned about only had to do with the burials because part of the embankment was displaced towards the bottom. Armitage told Maxwell that was where he was wrong, because Armitage was telling the council based on the information from the old maps that Cajugal brought it was discovered that Lewis had encroached onto the site. Hall said no one was disputing the issue of encroachment and Kirkendall was not supporting the encroachment either. Armitage again expressed his frustration about not having his phone calls returned. Hall said fine and said we need to move on to which Armitage reluctantly agreed.

Hall said what Kirkendall was concerned about was the potential of having burials in the embankment that was impacted by DOT. Armitage said before the encroachment existed, Lewis had to have pushed the fill into the area to have the existing embankment. Hall said the point was there was potential for the possible disturbance of burials and the state should have properly notified SHPD about what would be done. Hall said the council was not saying the state couldn't remove the encroachment. Hall said what the council was trying to point out was that if DOT wanted to proceed with the removal of vegetation, then DOT should follow the necessary procedures with SHPD to prevent a bigger problem from occurring by having an archaeologist out at the site for monitoring. Armitage asked why no archaeologist was present when Lewis encroached onto the road in the first place. Hall

said that was a valid point and that was why we need people like you to inform officials about things that aren't being done right. Hall said the council was not disputing what had been said by Armitage and also mentioned that so far the council was in agreement with everything that Armitage had shared and asked what other issues Armitage would like to discuss. Armitage asked why wasn't the state involved when the encroachment was first done. Hall said because the state also was not watching out for its own property. Armitage said that was where problems start and expressed how he felt the state should be held more accountable for its negligence.

(Kirkendall and Richardson exit at 11:22 a.m.)

Armitage said he likes what was said by Kuloloio and Naeole about asking for help and also mentioned the issue of the incrimination that had been done to our ancestors. Armitage said the council was there to preserve and to protect the integrity of burial sites, but also mentioned that the council needed the support of *opios* and *makuas* and the rest of the community. Armitage said the council should come out and talk to the people in the area and come to the community meetings and listen to the people of the area like in Haiku or Hawaiian Homes because it's the people who know the history of the *aina* and who had what deeds to what property. Maxwell interjects and said this was the burial council and the council's only concern pertains to burials. Armitage said if the council was going to permit a developer to develop ahupuaa lands that belongs to a certain family that we know had clear title, Armitage began to state a federal law passed in 1993 but was interrupted by Maxwell. Maxwell said he was aware of the rules and wanted Armitage to stick to the issue of the preservation of burials. Armitage said he knows and will get to that point but he needs to clarify the rules that will help assist the council in making better decisions. Armitage said if we were going to play basketball with football rules, it would be hard to dribble the ball and mentioned that that was what was being done today in Hawaii. Armitage said his point was that if the council was focused on the integrity of preserving our ancestry and our rights and the developers, the state and everyone else are depending on the council's opinions which affect him. Maxwell said he was upset because the council put a lot of effort into Maliko Point and trying to get Sky Lewis to adhere to the rules which was done to a certain extent and the state dropped the ball in the process. Maxwell said the council went back to the issue and wanted Armitage to stick to the issue because there were others that needed to speak and the council needed to move on.

Armitage agreed with what Maxwell had said and mentioned he would like to take the time other than the present moment to sit down and discuss some of the other issues and concerns he had. Armitage said Kuloloio brought up a good point about *ahupuaas* and said the council needs to know the rules. Minn said the council did know the rules. Maxwell asked Armitage, what was it he wanted the council to do or to come up with. Armitage said the bottom line was put the remnant back and have the encroachment remove because if he had done what Lewis did, Armitage mentioned he would have gone to jail. Maxwell said the council needed to talk with the state. Armitage said he spoke with the state and that was what Cajugal was doing. Maxwell said the council had no jurisdiction other than in the preservation area. Minn said the council supports Armitage in everything he said and agreed that what Armitage had said was true in reference to the history of the Hawaiian people. Armitage said he just wanted the council to know the rules and the difference between state laws and county laws and if it was not going to be consistent, then he did not want to participate. Minn said the council knows the rules.

Armitage apologized for interrupting when others were speaking and said Kuloloio and Naeole made sense.

Kuloloio said the burial council was still learning and that every case was different. Kuloloio said one thing he knew for sure was that he couldn't police all the goes on, neither can the council and neither could Armitage. Kuloloio mentioned all the council could do was try their best to do what was right and acknowledged the fact that yes there were things that happen which shouldn't or without the council's knowledge and that was why the council needs help to make them aware of these type of issues. Kuloloio acknowledged that the council and Armitage at first did not see eye to eye and that there was confusion but pertaining to access, that was the priority. Kuloloio said the site was first a concern by the Kalawaia family and because of that the council was still trying to fix the issue. Kuloloio thanked Armitage for coming because he helped to move the issue forward and now DOT couldn't be blamed. Kuloloio said even the state make mistakes and could not police themselves. Kuloloio asked Armitage to give the council a chance and the council would help bring closure to the issue. Armitage said he respects what the council stood for and what the council did and reiterated on how it was hard to get things done if everyone was following different rules. Armitage said he was there to help and would assist the council in anyway he could, which was why he was there today. Armitage said if the council made the wrong decision then he was going to have to come back at another MLIBC meeting. Armitage reiterated on how Cajugal of DOT was correcting the mistake of illegally putting up a barricade that restricted access and removal of the encroachment onto public lands. Armitage was upset because Kirkendall stopped Cajugal from doing his job without knowing all the facts.

Maxwell said he wanted to hear what Patricia Maddela the representative of the Kalawaia ohana had to say. Maxwell thanked Armitage and Armitage asked the council for forgiveness if he offended anyone. Armitage said he was there to help. Maddela referred to a photo album she had brought and explained where the original stairway to where the burials were. Maddela said she was disappointed when the guardrail was put up because it greatly limited her ability to access the burial site. Maddela said due to the guardrail the path was greatly narrowed and because the guardrail was placed at the entrance of the remnant road, it made it extremely difficult for those walking with a cane to get to the site. Maddela said since the guardrail was removed, it had been much easier and better for her to access the site. Maddela mentioned her ohana was having their first Kalawaia family reunion on August 14 at Maliko Point. Maddela said she anticipates over 200 people and thought about drafting a letter to Sky Lewis informing him of the event. Maxwell said a letter was not necessary and to just have the event. Maddela said she wanted to write the letter anyway. Maxwell asked Maddela what was it that she wanted the council to do for her. Maddela said she wanted to know if the guardrail would be put back up. Maddela also mentioned that she did not want everyone to take cars to the reunion and informed the council she would rent three buses to transport everyone.

Maxwell said the council had no jurisdiction as to whether or not the remnant road may be closed. Maxwell said the council only had jurisdiction on protecting the preservation site. Hall interjects and said the council had some jurisdiction over the road as it pertains to accessing the burial site. Maxwell said Armitage was right in the fact that the barricade was illegally put up. Maddela said there was a mountain of dirt out at Maliko. Naeole asked if she knew how the mountain of dirt got there, to which Maddela answered no.

Maxwell asked Armitage if he knew how the mountain of dirt got there. Armitage said all he wanted was for the department to see the reality of the situation and also revisited a point Kirkendall had made about not having enough space to turn a vehicle around. Armitage said the reason there wasn't adequate space was because of the 20 feet encroachment by Sky Lewis. Armitage said the pile of dirt was from Lewis when he started to develop an area to take pictures of his wedding program. Maddela said the dirt wasn't always there to which the council agreed.

Armitage said Lewis planted coconut trees along side the road which was 44 feet wide. Armitage shared about road use to which Hall explained was called roadway right of way. Armitage agreed with what Hall said and mentioned if the encroachment was to be removed, the public would gain at least 20 feet of road use. Armitage said he wanted Lewis to remove the encroachment and to stick to the original parcel that was purchased. Armitage said it was when Lewis started restricting the tutus and others from accessing the area was when problems started. Armitage said the reason Cajugal of DOT put a guardrail up at Maliko was because two lawnmower guys told him to. Armitage said he tried to contact Kirkendall on various occasions to which none of his calls were returned. Armitage said that was bad service and expressed his frustration because Kirkendall was a public servant. Armitage shared his passion for helping Hawaiians and correcting the injustice done upon the Hawaiian people. Maxwell interjected and thanked Armitage for his mana'o and asked Maddela to continue sharing.

Maddela said she shared what she wanted. Naeole asked Maddela if presently she was in favor of the guardrail being removed and that there was no hazardous danger present by removing the guardrail to which Maddela answered yes. Naeole asked if Lewis approached Maddela and asked her if she wanted the guardrail put up to which she answered no. Maxwell asked if Maddela had read a letter addressed to the council to which she answered no. Maxwell said in the letter, Lewis mentioned the Kalawaia family. Maddela said she received no letter from Lewis. (There was confusion as to how the letter made its way before the council) Kawika Farm of SHPD said the letter from Sky Lewis was given to him by a female attorney representing Lewis in the Maliko matter. Farm could not recall Lewis attorney's name and said the attorney only provided copies for the burial council members. Farm said no additional copies were made and that was how the letter came about. Maxwell told Maddela to be sure to read the letter.

Maddela said she asked Lewis if he was going to put a guardrail, to why not put a gate instead. Lisa Rotunno-Hazuka asked the council if it was known if monitoring had occurred when vegetation was pushed so coconut trees could be planted, to which the answer was no. Maxwell asked where the coconut trees were. Armitage explained using the drawing on the chalkboard and identified where the shoulder was and where the coconut trees were. Hall asked Armitage whether or not he knew if Lewis changed or altered the road down at Maliko. Kuloloio asked if Lewis cut into the embankment at all. Armitage said the slope of the bank was like a 1.5 which goes up to Lewis's property line with the hedges and removed the vegetation from the opposite side and threw it over the embankment.

Kuloloio asked when the state came, whether it was DOT or what not, who came first. Armitage said he spoke with Cajugal who informed him of the reason why the guardrail was put up was because the lawnmower guys said. Armitage said he told Cajugal that

Lewis had to restore the remnant road to its original form before the encroachment was done. Armitage said he always respected the burials that were in the area. Minn asked if when the DOT came in with their heavy equipment if they pushed the vegetation and the coconut trees. Armitage said no because Kirkendall put a halt to the project before anything could be completed. Minn asked where the DOT started clearing first. Armitage said where Lewis had his little area to take pictures. Maxwell said that had to all come down because it was illegal anyway. Armitage used the drawing to explain where the monument that Lewis put in the area was. Maxwell said Lewis built up the area where the wedding was to take place and reiterated on how the council put a stop from the state selling the remnant road to Lewis. Maxwell said because Lewis was unable to purchase the road he was supposed to clear out all his alteration in the area and suggested someone file a complaint with the state and with Fred Cajugal. Armitage said that would be done but only after the council had made a decision on the issue. Armitage said what trumped and stopped the whole situation was Kirkendall finding the chicken bone.

Maxwell said the council was concerned about the preservation area. Armitage said he had no problem with that and he respects the council's position in the matter. Armitage said his problem was with the encroachment onto a public road that blocked the kupunas and the use of the states political authority for Sky Lewis's own personal gain. Armitage said he tried to correct the situation without getting too involved into the whole political arena, but it didn't work out that way and now he was there before the council. Armitage said he wishes Kirkendall was still at the meeting because she was the one who stopped the correction. Armitage said he called Kirkendall 9 or 10 times to shine light on the situation but was never called back.

Maxwell said the council had control over the road in accessing the burial site. Hall said the council did not have control, the council could suggest things. Minn said all the council could do was make recommendations. Armitage said he spoke on behalf of Haiku and wanted the problem of the encroachment corrected. Minn said the council was not only concerned about the encroachment but in the method of clearing the vegetation. Hall asked Armitage if he had any correspondence with Fred Cajugal. Armitage said yes but he did not have it with him today. Maxwell asked Armitage if he could get copies of the correspondence to Hall to which Armitage answered yes. Hall said she wanted the correspondence to help in drafting a letter to Cajugal in which she would explain some of the concerns the council had such as blocking access to the burial sites and making sure an archaeologist was present to monitor the removal of the encroachment. Kuloloio asked if a copy of the metes and bounds could be provided. Armitage said he could make one for Kuloloio. Maxwell said in clearing, there might be burials present. Armitage said with respect to the council, he tried to handle the situation without getting too involved with what the council does.

Wong said she wanted to point out that since there was an earlier discussion of a mound of soil she said in the letter Sky Lewis wrote, at the end of the first paragraph on the second page it states, "there is a large mound of soil, taken from the edge of the remnant and from the area below the grave site about half way down the remnant." Minn asked who put the soil there. Wong said it was unclear as to who put the soil there but she just wanted to mention that Lewis did include it in his letter. Maxwell said that was why Hall would draft a letter. Armitage said he uses the road a lot to fish and do tow-in surfing and it really didn't bother him at first when Lewis put the guardrail up because there was

always another way for him to gain entry to the area. Armitage said what did bother him was when the tutus came and told him they needed his support, that was when he sprung into action. Armitage said he saw the encroachment, the embankment and just wanted the situation corrected because if people could get away with this situation, then there would be many more fires which could slip through the cracks. Armitage said Cajugal of DOT knew what to do to correct the mistake and was in the process of restoring the road to its original size until the project was stopped. Maxwell said that would be covered in the letter by Hall.

Maddela said there were a lot of *pohakus* that fell over the embankment. Maddela said Lewis called her one day to ask if he could use some of the *pohakus* to which she told him no because the stones all belonged to the gravesites. Maxwell mentioned Lewis was selling the place. Maddela said she knew. Minn said the sale was being advertised on the internet. Maddela said she knew and had her granddaughter look it up on the internet and her granddaughter found the advertisement. Armitage said, the bottom line was to *hemo* and restore the area to its original radius and there would be lots of room to turn around. Hall reminded Armitage about getting her copies of the correspondence between him and Cajugal. Armitage acknowledged Hall and assured her that he would. Hazuka said she wanted to add that in the past there were piles of fill on properties that were pushed around without monitoring. Hazuka said if the piles had a potential for remains ASH had made every landowner screen the whole pile or area to be consistent.

Naeole said maybe the council should have two letters, one to the state in regards to encroachment and the second would be to discuss that in fact violations had been made. Maxwell and Hall asked Naeole to make the motion based on what he had just said.

Naeole moved to propose a letter to the State about the encroachment and violations committed.

Hall clarified Naeole's motion with Naeole's agreement and Minn seconded "that the Vice-Chair write a letter to the state highway division recommending that any encroachments within the roadway remnant rights of way be removed and that any ground disturbing activities be monitored by a qualified archaeologist."

VOTE: ALL IN FAVOR. The motion carried unanimously

Status Update on Preservation Measures for Site 3120 at Nisei Veterans Memorial Center Project, Wailuku Ahupua'a, Wailuku District, Maui; TMK: 3-8-07-123 and 38 por.

Hall said the last update was in October and (inaudible).

IV. ANNOUNCEMENTS

None offered.

V. ADJOURNMENT

Minn moved and Naeole second "to adjourn the Maui / Lana'i Islands Burial Council meeting at 12:05 p.m."

VOTE: ALL IN FAVOR. The motion carried unanimously.

Respectfully submitted,

Kawika Farm
Clerk Stenographer II
State Historic Preservation Division